NO. 48378-5-II

IN THE COURT OF APPEALS FOR THE STATE OF WASHINGTON
DIVISION II

DONNA AND JEFF ZINK, et al, APPELLANTS

vs.

JOHN DOE G, et al, RESPONDENTS

CORRECTED BRIEF OF RESPONDENT JOHN DOE G IN RESPONSE TO OPENING BRIEF OF APPELLANTS, ZINK

APPEAL FROM THE PIERCE COUNTY SUPERIOR COURT
OF THE STATE OF WASHINGTON

CASE NO. 14-2-14293

(Originally filed as Case No. 15-2-06642-3)

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COMES NOW the Plaintiff/Respondent herein, denominated in pseudonym as JOHN DOE G, by and through his attorney, WILLIAM R. MICHELMAN and, pursuant to RAP 10.1, respectfully submits the following Corrected Brief of Respondent in response to the Brief of Appellant, DONNA L.C. ZINK (hereinafter "ZINK").

I. PARTIES

PLAINTIFF/RESPONDENT: JOHN DOE G is a resident of Pierce County, Washington, where he is currently registered as a compliant Level III sex offender. He appears by pseudonym by order of the trial court for his own privacy and protection. His true identity was disclosed by his attorney of record to the Defendant, PIERCE COUNTY, through the Pierce County Sheriff's Office, when his lawsuit was originally filed so that PIERCE COUNTY would be able to determine which documents pertain to him.

1.2 RESPONDENT PIERCE COUNTY: The Respondent, PIERCE COUNTY, is a political subdivision of the State of Washington. It is the government agency that received a Public Records Act (PRA) request from the Appellant, ZINK. PIERCE COUNTY operates the Pierce County Sheriff's Department as a county-wide law enforcement agency.

1.3 APPELLANT: The Appellant, ZINK, is a resident of Mesa, Franklin County, Washington. On October 3, 2014, ZINK made a Public Records Act (PRA) request to Defendant Pierce County that resulted in the filing of several lawsuits by persons named in documents subject to that request in Pierce County Superior Court. [1]

II. RELIEF REQUESTED

The Respondent, JOHN DOE G, asks that this Court deny ZINK's appeal and that it sustain the decisions of the trial court in so far as they apply to JOHN DOE G.

III. ISSUES PRESENTED

(1) Should Plaintiff/Respondent have been permitted to proceed in pseudonym, when disclosure of his identity was inherently at issue in the case because he was seeking an injunction to prevent the release of his name and his pinpoint address, and equity demands that he not be forced to surrender his privacy in order to seek judicial review, and he faced the potential for

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1. JOHN DOE G's individual action for an injunction was filed in Pierce County Superior Court under Case No. 15-2-06442-0. It was subsequently consolidated with Case No. 14-2-14293-1 (class action for Level 1 sex offenders); with Case No. 14-215100-0 (class action for Level 2 and 3 sex offenders); and with Case No. 15-2-05605-6 (Pierce County's declaratory action on behalf of juvenile sex offenders). All of these cases have now been consolidated under Case No. 14-2-14293-1.

physical and psychological harm, stigmatization and other losses if his identity was revealed?

(2) Should the trial court have issued a temporary restraining order (TRO) to preserve the status quo for a short time, until a hearing could be held with adequate notice to the other interested parties?

(3) Should the trial court have issued a preliminary injunction to preserve the status quo until the dispute could be adjudicated?

(4) Should the trial court have issued a permanent injunction under the facts in this case?

IV. FACTS

This dispute started when, by fax dated October 3, 2014, ZINK sent a PRA request to Pierce County addressed "To the Public Records Officer or to whom this may concern." (**CP 1217-1279, at Tab#1**[2].) ZINK requested all SSOSA evaluations; SSODA evaluations; Victim Impact statements for sex offenders; Registration forms of all sex offenders registered in Pierce County; and a list and/or data base of all registered sex offenders registered in Pierce County maintained in the Pierce County sheriff's office, the Prosecutors office or any office or department of Pierce County.

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2. CP refers to Clerk's Papers. If the CP contains exhibits, the tab # is cited.

After receiving the PRA request from ZINK, the Public Disclosure Unit of the Pierce County Sheriff's Department (PCSD) sent a letter to affected persons, including Plaintiff/Respondent JOHN DOE G, under PCSD File #1410029 addressed to "TO WHOM IT MAY CONCERN." (**CP 1217-1279 at Tab #2.**) The letter advised that "if you wish to stop disclosure of any PCSD records, you must obtain a temporary restraining order (TRO) and a subsequent permanent injunction court order prohibiting the release of such records." The letter further advised that, "**Any court order that you obtain prohibiting the release of any PCSD records in whole or in part must be served on PCSD by no later than 4:00 p.m. on Tuesday, March 3, 2015.** If PCSD does not receive a court order prohibiting the release of any records by that date, PCSD will make its own determinations in providing the requester any responsive records that pertain to you." (Emphasis in original)

As indicated above, Respondent JOHN DOE G is a registered Level III sex offender. He has registered with the Pierce County Sheriff as required by law. He completed a sex offender registration form and submitted it to Pierce County. He has complied with all registration renewal and update requirements. (**CP 3286-3289.**) Shortly after he received a TRO from Pierce County Superior Court, JOHN DOE G made his true identity

known to Pierce County so that the PCSD would know to whose records the JOHN DOE G TRO pertained. Pierce County has not indicated that JOHN DOE G is not in compliance with his registration requirements.

By the time JOHN DOE G received his letter from Pierce County, ZINK's PRA request had already triggered two lawsuits in Pierce County Superior Court that were certified as class action lawsuits, to-wit: ***John Doe L – O v. Pierce County v. Zink***, Case No. 14-2-14293-1 (seeking injunction on behalf of all Level I sex offenders); and ***John Doe D v. Pierce County v. Zink***, Case No. 14-2-15100-0 (seeking injunction on behalf of all Level II and Level III sex offenders). In addition, Pierce County had filed a declaratory action in Pierce County Superior Court seeking an injunction on behalf of all juvenile sex offenders under Case No. 15-2-05605-6, entitled ***Pierce County v. Zink***. All three of those cases were consolidated, because of the common questions of law and fact involving similarly situated parties. (**CP 1092 -1094 and 1032-1034.**)

JOHN DOE G decided to file his own action seeking an injunction, because he is somewhat differently situated from the other registered Level III offenders. (**CP 3101-3124.**) In his action, he objected to and challenged the release of his sex offender registration forms and/or the release of any information that is not otherwise already available to the public that is

contained in those forms and/or such information if it has been transferred to a computerized database. He also challenged the release of his SSOSA evaluation, including the results of any polygraph test administered in conjunction with his SSOSA evaluation, because his SSOSA evaluation is not in the public record, nor is it a public record. JOHN DOE G did not seek nor did he receive a SSOSA sentence. As he explained in the declaration he filed with the trial court, at his defense attorney's direction he did participate in a SSOSA evaluation, but he neither sought nor received a SSOSA sentence and the evaluation was not filed with the Court. (**CP 3286-3289.**) He does not have a copy of it. Pierce County has indicated that it does not possess a copy of JOHN DOE G's SSOSA evaluation either.

JOHN DOE G's action for an injunction was consolidated with the three other consolidated lawsuits that are referenced above. (**CP 1092-1094 and 1032-1034.**) In each of the consolidated class action lawsuits, the named plaintiffs appear by pseudonym. In each of them, the trial court granted a TRO and then a preliminary injunction. (**CP 3270-3285 and 3290-3292.**)

JOHN DOE G does not know why ZINK made her PRA request to Pierce County, but she has stated in related litigation in Pierce County that she will act in her own discretion in deciding what to do with those documents. It has been alleged in one of the consolidated cases in

Pierce County that, "Ms. Zink intends to post information from the registration forms and SSOSA Evaluations, in whole or in part, on a website available to the general public information not available through websites maintained by the Sheriff's Office and other public agencies, including detailed psychological records. Ms. Zink has already posted similar information from sex offender registration forms obtained from Franklin County." In Pierce County's declaratory action against ZINK, she filed a counterclaim seeking money damages of $100 per day per document that Pierce County has not released to her. She has been successful in obtaining money from PRA requests in the past.

JOHN DOE G had good reason to be apprehensive about the release of his SSOSA application and his sex offender registration forms to Ms. Zink. (**CP 3286-3289 and 291-710**.) Some of the materials contained at those pages were attached to the Declaration of Vanessa T. Hernandez, one of the attorneys representing various John Does in one of the class action lawsuits with which the JOHN DOE G case was consolidated, to-wit: Pierce County Superior Court Case No. 14-2-14293-1. Thus, the trial court judge in the JOHN DOE G case had that submission before him for his consideration in the JOHN DOE G case.

V. APPLICABLE LAW AND ARGUMENT

1. **Standard of Review**. The standard of review for determining whether the trial court properly issued a TRO, a temporary injunction, or a permanent injunction is abuse of discretion. Cf., ***Yousoufian v. Office of Ron Sims***, 152 Wash.2d 421, 98 P.3d 463 (2004), because the trial court's decision is based upon its findings of fact in the case. Likewise, the standard of review for determining whether the trial court properly permitted a party to proceed under pseudonym is abuse of discretion, because that decision is also based upon the trial court's assessment of the facts in the case. An appellate court will review questions of law de novo, ***Pacheco v. Ames***, 149 Wn.2d 431, 436, 69 P.3d 324 (2003).

2. **The trial court did not err in permitting JOHN DOE G to proceed in pseudonym**. JOHN DOE G was permitted by the trial court to proceed in pseudonym because, in his action for an injunction to prevent the disclosure of his sex offender registration documents and his SSOSA evaluation, because his identity was inherently at issue. (**CP 1217-1279 at Tab # 1&2; and 3233-3247.**) The use of a pseudonym is a common convention employed in cases where the use of a party's true name would inhibit or impede that party's ability to obtain access to justice.

In this case, JOHN DOE G sought, in part, to obtain an injunction to

prevent the release of his name and his pinpoint (or crosshair) address. An action for injunctive relief lies in equity, and equity demands that JOHN DOE G not be forced to surrender his identity in order to seek judicial review. If JOHN DOE G could not proceed in pseudonym, ZINK would win by getting part of what she seeks before the case could be adjudicated. Furthermore, JOHN DOE G had a reasonably belief that he could face physical and psychological harm, stigmatization and other losses if his identity as a Level III sex offender was revealed or emphasized in his suit for an injunction. (**CP 3286-3289 and 291-710.)** Given the nature of the case, and its potentially explosive consequences, the trial court did not abuse its discretion by permitting JOHN DOE G, and all of the other plaintiffs in the consolidated cases, to appear in pseudonym.

ZINK claims that she is somehow harmed by the fact that JOHN DOE G has been allowed by the trial court to proceed in pseudonym, but she made her PRA request without naming any particular person. She has never explained how her PRA request is prejudiced by JOHN DOE G's proceeding in pseudonym, nor has she ever explained how that would in any way prevent her from asserting her position in the case. She has offered no authority on point.

It is not uncommon in Washington for parties to proceed in pseudonym under appropriate circumstances. See, e.g., ***N.K. v. Corporation of The Presiding Bishop of Church of Jesus Christ of Latter-Day Saints***, 67645-8-I (Wash.App.Div.1 07/22/2013) (adult proceeding under pseudonym who was molested as a juvenile); and ***Jane Roe v. Teletech Customer Care Management Colorado LLC***, No. 83768-6 (Wash. 06/09/2011) (Roe filed suit under a pseudonym because medical marijuana use is illegal under federal law). As indicated above, the lead plaintiffs in the consolidated class action lawsuits in this case have proceeded in pseudonym for the same reasons as JOHN DOE G. JOHN DOE G should not be treated any differently from the other pseudonym plaintiff.

ZINK argues that it is "unconstitutional" to allow JOHN DOE G to proceed in pseudonym. That argument lacks merit in the context of this case. Article 1, section 10 of the Washington State Constitution provides that "[j]ustice in all cases shall be administered openly, and without unnecessary delay." Wash. Const. art. I, § 10. "This mandate 'guarantees the public and the press a right of access to judicial proceedings and court documents in both civil and criminal cases.'" ***Hundtofte v. Encarnacion***, 169 Wn. App. 498, 506-07, 280 P.3d 513 (2012) (quoting ***Dreiling v. Jain***, 151 Wn.2d 900, 908, 93 P.3d 861 (2004)). A party's appearance in pseudonym does not in conceal

the court process or access to court documents. Furthermore, "not every occurrence or event related to court proceedings falls within the access to the courts provision." ***Tacoma News, Inc. v. Cayce***, 172 Wn.2d 58, 66, 256 P.3d 1179 (2011). Rather, Washington courts have determined that, when the core concern of article I, section 10 is not implicated, our constitution does not mandate public access to the requested court documents. ***Cayce***, 172 Wn.2d at 66-72; ***Rufer v. Abbott Labs.***, 154 Wn.2d 530, 548-50, 114 P.3d 1182 (2005); ***Dreiling***, 151 Wn.2d at 908-10; ***Bennett v. Smith Bunday Berman Britton, PS***, 156 Wn. App. 293, 304-08, 234 P.3d 236 (2010), petition for review granted, 170 Wn.2d 1020 (2011). This "core concern," . . . "is to guarantee the public's right to observe 'the operations of the courts and the judicial conduct of judges.'" ***Bennett***, 156 Wn. App. at 306 (quoting ***Dreiling***, 151 Wn.2d at 908). Indeed, our Supreme Court has determined that, where "information does not become part of the court's decision-making process, article I, section 10 does not speak to its disclosure." ***Dreiling***, 151 Wn.2d at 910 (noting that "mere discovery" does not implicate the open courts provision). See, ***Ringhofer v. Ridge***, 290 P.3d 163 (2012). Thus, the decision whether to permit a party to proceed in pseudonym for equitable reasons in an equitable case is a matter of the proper exercise of judicial discretion and it does not rise to a constitutional level.

ZINK further argues that permitting JOHN DOE G to proceed in pseudonym is tantamount to a redaction or sealing of the record in violation of ***Seattle Times Co. v. Ishikawa***, 97 Wn.2d 30, 640 P.2d 716 (1982), but she does not explain why. In fact, her ***Ishikawa*** argument has no merit in the context of this case.

Ishikawa sets forth the factors that a court must consider before sealing a file. As articulated in ***Ishikawa***, those factors may be summarized as follows:

> 1. The proponent of closure and/or sealing must make some showing of the need therefor. In demonstrating that need, the movant should state the interests or rights which give rise to that need as specifically as possible without endangering those interests.
>
> 2. Anyone present when the closure and/or sealing motion is made must be given an opportunity to object to the suggested restriction.
>
> 3. The court, the proponents and the objectors should carefully analyze whether the requested method for curtailing access would be both the lease restrictive means available and effective in protecting the interests threatened. If limitations

on access are requested to protect the defendant's right to a fair trial, the objectors carry the burden of suggesting effective alternative. If the endangered interests do not include the defendant's Sixth Amendment rights, that burden rests with the proponents.

4. The court must weigh the competing interests of the defendant and the public, and consider the alternative methods suggested. Its consideration of these issues should be articulated in the findings and conclusions, which should be as specific as possible rather than conclusory.

5. The order must be no broader in its application or duration than necessary to serve its purpose. If the order involves sealing of records, it shall apply for a specific time period with a burden on the proponent to come before the court at a time specified to justify continued sealing.

JOHN DOE G did not ask for, and trial court did not order that any part of the proceedings be redacted or sealed. Proceeding in pseudonym is neither redacting a record nor sealing a file. Thus, neither ***Ishsikawa,*** nor GR 15, nor ***State v. Waldon***, 202 P.3d 325, 148 Wash.App. 952 (2009) (analyzing relationship between GR 15 and ***Ishikawa***) apply to the facts in

this case. Here the trial court merely permitted JOHN DOE G to proceed in pseudonym during the pendency of this case, because ZINK had requested his identity (by requesting his sex offender registration forms), and to proceed otherwise would be to grant ZINK's request before the matter could be adjudicated. Thus, the trial court did not abuse its discretion and it did not err in permitting JOHN DOE G to proceed under a pseudonym. (We believe, *arguendo*, that even if ***Ishikawa*** applied as ZINK argues, JOHN DOE G's motion to proceed in pseudonym would meet the ***Ishikawa*** factors.)

3. **The trial court did not err in issuing a temporary restraining order (TRO) to preserve the status quo for a short time, until a hearing could be held with adequate notice to the other interested parties**. ZINK's records request is based upon the Public Records Act found in Chapter 42.56 RCW. Upon receiving ZINK's PRA request, Pierce County quite properly started notifying those persons who would be affected by that request. (**CP 1217-1279 at Tab #2.**) The authority for Pierce County to notify persons named in the requested records, or to notify persons to whom such records pertain is found in the PRA at RCW 42.56.540, which provides as follows:

> **RCW 42.56.540**
> **Court protection of public records.**
> The examination of any specific public record may be enjoined if, upon motion and affidavit by an agency or its

> representative or a person who is named in the record or to whom the record specifically pertains, the superior court for the county in which the movant resides or in which the record is maintained, finds that such examination would clearly not be in the public interest and would substantially and irreparably damage any person, or would substantially and irreparably damage vital governmental functions. **An agency has the option of notifying persons named in the record or to whom a record specifically pertains, that release of a record has been requested.** However, this option does not exist where the agency is required by law to provide such notice. (Emphasis added.)

This statute specifically authorizes an agency, such as the Pierce County Sheriff, to notify "persons named in the record or to whom a record specifically pertains, that release of a record has been requested," so that such persons may seek an injunction against the release of the requested records. Thus, any claim by ZINK that Pierce County should not have notified persons such as JOHN DOE G is incorrect.

RCW 42.56.540 specifically provides that "the superior court for the county in which the movant resides or in which the record is maintained" may enjoin examination of "any specific public record" . . . "upon motion and affidavit by . . . a person who is named in the record or to whom the record specifically pertains" . . . if the court finds "that such examination would not be in the public interest and would substantially and irreparably damage any person, or would substantially and irreparably damage vital governmental functions."

JOHN DOE G had the right to seek to enjoin the release to ZINK of the records that name him and that pertain to him. Therefore, he had the right to seek an injunction and to employ the procedures set forth in Chapter 7.40 RCW that deal with injunctions. In this case, JOHN DOE G was given a deadline by Pierce County for obtaining a restraining order, so he sought a TRO under RCW 7.40.050. A TRO was granted, but only for a limited time.

At the same time that the trial court granted a TRO, it also set a date for a hearing on a preliminary injunction to provide ZINK with notice and opportunity to be heard. (**CP 3290-3292.**) Thus, the trial court did not abuse its discretion nor did it err in granting a TRO to JOHN DOE G.

4. **The trial court did not err in issuing a preliminary injunction to preserve the status quo until the dispute could be adjudicated**. JOHN DOE G sought a preliminary injunction to preserve the status quo, until his request for a permanent injunction RCW 42.56.540 could be adjudicated. In doing so, he complied with Chapter 7.40 RCW. RCW 7.40.020 provides in pertinent part as follows:

> **RCW 7.40.020**
> **Grounds for issuance.**
> When it appears by the complaint that the plaintiff is entitled to the relief demanded and the relief, or any part thereof, consists in restraining the commission or continuance of some act, the commission or continuance of which during the litigation would produce great injury to the plaintiff; or when during the litigation, it appears that the defendant is doing, or

> threatened, or is about to do, or is procuring, or is suffering some act to be done in violation of the plaintiff's rights respecting the subject of the action tending to render the judgment ineffectual; or where such relief, or any part thereof, consists in restraining proceedings upon any final order or judgment, an injunction may be granted to restrain such act or proceedings until the further order of the court, which may afterwards be dissolved or modified upon motion.

5. **The trial court did not err in granting a permanent injunction to enjoin the disclosure of JOHN DOE G's SSOSA evaluation and his sex offender registration forms.** In his Complaint for an injunction, JOHN DOE G sought to protect from disclosure by Pierce County to ZINK his SSOSA evaluation and his sex offender registration forms. He showed the trial court that he was entitled to relief in regard to both of those records. **(CP 3101-3124; 1201-1216; 3286-3289; and 3503-3565.)**

While the PRA reflects a strong public policy favoring the disclosure and production of information, and exemptions are to be narrowly construed, RCW 42.56.030, not all records are subject to disclosure. A party may successfully challenge the production of records under the PRA by establishing a specific exemption that bars production of the requested records. RCW 42.56.070(1); ***Progressive Animal Welfare Soc'y v. Univ. of Wash.***, 125 Wn.2d 243, 251, 884 P.2d 592 (1994) (PAWS II). In addition, a party opposing the production of public records may establish that production would "clearly not be in the public interest and would substantially and

irreparably damage any person, or would substantially and irreparably damage vital governmental functions." RCW 42.56.540; ***Seattle Times v. Serko,*** 170 Wn.2d 581, 243 P.3d 919 (2010), see ***Soter v. Cowles Publ'g Co.***, 162 Wn.2d 716, 174 P.3d 60 (2007). JOHN DOE G did both. Not only would the production of his SSOSA evaluation not be in the public interest, but it would substantially and irreparably damage persons, including JOHN DOE G himself and others who might be named in that evaluation. More fundamentally, however, JOHN DOE G's SSOSA evaluation, wherever it may be, is simply not a public record and it is protected by the attorney-client and work product privileges. As to his sex offender registration forms, they contain exempt information.

SSOSA evaluation: ZINK requested JOHN DOE G's SSOSA evaluation. JOHN DOE G's SSOSA evaluation is not a public record, because it does not fall within the definition of a public record as defined by the PRA. RCW 42.56.010 defines a "public record" in pertinent part as follows:

> **RCW 42.56.010 (3): "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.**

JOHN DOE G obtained a SSOSA evaluation at the urging of his trial

attorney and for his trial attorney. (**CP 3286-3289.**) JOHN DOE G decided not to seek a SSOSA sentence. He did not submit his evaluation to the court. He did not receive a SSOSA sentence and his SSOSA evaluation was not filed with the court. Pierce County has indicated that it has conducted a search and JOHN DOE G's SSOSA evaluation was not located. (As indicated above, Pierce County knows his true identity.) JOHN DOE G believes that his evaluation mentions other persons who would be substantially damaged by the release of that evaluation. He also believes that he would be substantially damaged by the release of that evaluation due to its contents. Furthermore, if SSOSA evaluations are subject to release under a PRA request, then convicted sex offenders will be less likely to participate in the SSOSA program thus causing irreparable damage to a vital governmental function (law enforcement and criminal justice). Thus, the trial court did not abuse its discretion and it did not err when it issued a preliminary, and then a permanent injunction as to the SSOSA evaluation.

Since JOHN DOE G's SSOSA evaluation was prepared at his defense attorney's request and for use in his criminal case, it is exempt from disclosure under the PRA by the attorney-client privilege exemption. ***Hangartner v. City of Seattle***, 151 Wn.2d 439, 90 P.3d 26 (2004). Likewise, it is also exempt from disclosure under the PRA under the work

product privilege exemption. ***Soter v. Cowles Publishing Co.***, 162 Wash.2d 716, 174 P.3d 60 (2007).

Sex offender registration forms: ZINK has requested JOHN DOE G's sex offender registration forms. JOHN DOE G has been registering as a Level III sex offender in Pierce County since his release from prison in 2010. (**CP 3286-3289.**) He must renew his registration periodically and the Pierce County Sheriff's Department visits his residence on a quarterly basis. His registration forms necessarily contain his true name and his physical residence address.

JOHN DOE G believes that the release of his sex offender registration forms to ZINK would substantially and irreparably damage vital government functions, including, but not limited to, law enforcement and public safety, including the Pierce County Sheriff's obligation to place limitations on the disclosure of specific addresses of sex offenders pursuant to RCW 4.24.550(5)(1)(i), which limits disclosure of Level III offenders' addresses by "hundred block." The Legislature has determined that the release of addresses by the hundred block strikes the proper balance between the publics need to know and public safety, including the safety of the registered offender. JOHN DOE G has reasonable grounds to fear that if his residence address is published on the internet, or otherwise, he will be

subjected to harassment, or worse to vigilante action.

Much of the information contained in JOHN DOE G's sex offender registration forms is exempt "personal information" under RCW 42.56.230 (7)(a), which provides an exemption for information of the type required to apply for a driver's license or identicard such as "any record used to prove identity, age, residential address, social security number . . . "

Thus, it appears that the trial court had grounds to issue a preliminary and a permanent injunction as to JOHN DOE G's sex offender registration forms. The trial court did not abuse its discretion and it did not err by issuing a preliminary, and then a permanent injunction as to JOHN DOE G's sex offender registration forms.

VI. CONCLUSION

In his Complaint JOHN DOE G asked the trial court, pursuant to RCW 42.56.540 and State and Local CR 16(b), and CR 65 (2)(b) for the issuance of a TRO and a Preliminary Injunction to prevent the Defendant PIERCE COUNTY from complying with ZINK's PRA request for certain sex offender records of JOHN DOE G and others, including his sex offender registration forms and his SSOSA evaluation. That PRA request would necessarily include the precise home address of JOHN DOE G, along with information requiring unredacted disclosure of family members, possibly

psychological records, more detailed descriptions of offenses than the Sheriff can disclose, and other information that may be harmful or embarrassing to other persons. JOHN DOE G moved the Court to restrain such disclosure for 14 days, or until such time as the parties may be heard in a full and fair hearing on the grounds that such disclosure would "clearly not be in the public interest and would substantially and irreparably damage any person," including JOHN DOE G; and, additionally, that it would substantially and irreparably damage vital government functions, including, but not limited to, law enforcement and public safety, including the Pierce County Sheriff's obligation to place limitations on the disclosure of specific addresses of sex offenders pursuant to RCW 4.24.550(5)(1)(i) (limiting disclosure of Level III offenders' addresses by "hundred block.") The TRO and subsequently the preliminary and permanent injunctions were properly granted.

ZINK's appeal consists of a fascinating shotgun collection of her voluminous, inapposite pseudo-legal musings. ZINK purports to raise many issues, apparently under the notion that if you throw enough mud on the wall, some of it will stick. But ZINK fails to show how permitting JOHN DOE G to proceed under a pseudonym prevents her from arguing her case. Likewise, she fails to show how the entry of a TRO or a preliminary injunction prevented her from arguing her case. Finally, she fails to demonstrate how the

issuance of a permanent injunction was an abuse of discretion or an otherwise erroneous decision. The core issue before the trial court was whether, and to what extent, any exemptions apply under the PRA to ZINK's public records request. The preliminary rulings of the trial court of which ZINK complains did not impact the ability of any of the parties, including ZINK, to argue the facts or the law. The trial court did not err in permitting Plaintiff/Respondent to proceed in pseudonym as JOHN DOE G; it did not err in granting a TRO; and it did not err in granting a preliminary injunction. Finally, the trial court did not err in granting summary judgment and a permanent injunction.

After the TRO and the subsequent Preliminary Injunction were granted by the trial court to JOHN DOE G, ZINK sought interlocutory review by way of a motion for discretionary review. The Court of Appeals, Division II, in a well-reasoned decision by the Commissioner denied ZINK's motion for discretionary review. While the issues raised by ZINK in the motion for discretionary review and the issues raised in this appeal are not entirely congruent, the reasoning of the Commissioner in his ruling denying discretionary review is instructive. ZINK filed a motion for reconsideration and that was also denied.

ZINK assumes that under the PRA she has an entitlement to any records she seeks. The PRA is a strong statute that seeks to foster open

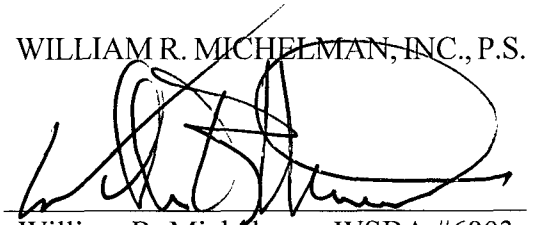
government by creating a strong right to obtain public records. But that right is not unlimited and, in this case, ZINK's request goes too far. This Court should find that JOHN DOE G's SSOSA evaluation is not a public record and, even if it is a public record, its release to ZINK is "clearly not in the public interest and would substantially and irreparably damage any person . . ."

Similarly, this Court should find that JOHN DOE G's sex offender registration forms contain exempt "personal information" under RCW 42.56.230 (7)(a), and that they should not be disclosed to ZINK, or, in the alternative, that all "personal information" should be redacted from them prior to disclosure.

ZINK has failed to show that any ground for reversing the decision of the trial court in the JOHN DOE G case exists. Thus, ZINK's appeal should be denied and the decisions of the trial court in this case should be sustained.

DATED this 21st day of October, 2016.

WILLIAM R. MICHELMAN, INC., P.S.



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CERTIFICATE OF SERVICE

I CERTIFY under penalty of perjury of the laws of the State of Washington that on this 21st day of October, 2016, I served true and correct copies of the attached John Doe G's Corrected Response to Donna Zink's Motion for Discretionary Review, and this Certificate of Service, on the persons hereinafter named in the manner so described:

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DATED this 21st day of October, 2016.

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